

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

KELLY A. AYOTTE
ATTORNEY GENERAL



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September 30, 2005

Section 5 Submission

Chief, Voting Section
Civil Rights Division
Room 7254 – NWB
Department of Justice
950 Pennsylvania Ave., NW
Washington, DC 20006

Re: Submission Under Section 5 of the Voting Rights Act for:

New Hampshire Revised Statute Annotated ("RSA") 654:44, a STATUTE related to removing names from the checklist, enacted by Laws of 1981 Chapter 378.

Dear Voting Section Chief:

Pursuant to 42 U.S.C. § 1973(c), the State of New Hampshire, through the Office of the New Hampshire Attorney General, hereby submits RSA 654:44, a STATUTE related to removing names from the checklist, enacted by Laws of 1981 Chapter 378.

SUBMISSION:

In accordance with 28 C.F.R. § 51.27, the submission is as follows:

- a) Chapter 378 (1981) enacting RSA 654:44 is attached (Exhibit 654:44 A).
- b) Not applicable.
- c) The changes made by amendments to RSA 654:44 are as follows:
 - 1. Chapter 378 (1981) enacts 654:44

- d) This submission is made by: Senior Assistant Attorney General
Orville B. Fitch II, 33 Capitol Street, Concord, New Hampshire 03301,
Phone: (603) 271-1238.
- e) The submitting authority is New Hampshire Attorney General, Kelly
A. Ayotte for the State of New Hampshire.
- f) Not applicable.
- g) The changes for which pre-clearance is sought were made by a
decision of the New Hampshire General Court (Legislature).
- h) In accordance with Amendment X of the U.S. Constitution, the New
Hampshire General Court, the State's legislature, acting pursuant to
the New Hampshire Constitution Part Second, Article 2, granting
supreme legislative power within the state to the House and Senate,
who with right to negate each other are granted power to make law
through Part Second, Article 5. Additional authority regarding
election law is vested in Part First, Article 11.

The legislature through a bicameral process passed law to create
Chapter 378 (Exhibit 654:44 A). The bill was signed into law (by the
Governor) on June 23, 1981, pursuant to New Hampshire Constitution
Part Second, Article 44.

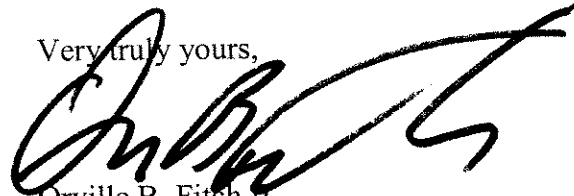
- i) Adoption dates:
 - 1. Chapter 378 (1981) adopted June 23, 1981
- j) Effective dates:
 - 1. Chapter 378 (1981) effective August 22, 1981
- k) The changes have been enforced.
- l) The changes affect the entire State of New Hampshire.
- m) The purpose for the changes are as follows:
 - 1. The purpose of the Chapter 378 (1981) enactment is to require
notice be sent by the supervisors to any person whose name is
to be removed from the checklist prior to the name being
removed
- n) These changes do not negatively target any protected class under
section 5 of the Voting Rights Act of 1965. 42 U.S.C. 1973(c). They

are expected to have neutral impact and do not meet the test of retrogression defined in *Reno v. Bossier Parish Sch. Bd*, 520 U.S. 471, 478 (1997). “(T)he ability of minority groups ... to elect their choices to office” will not be diminished. *Beer v. U.S.*, 425 U.S. 130, 141 (1976).

- o) None known.
- p) This submission seeks preclearance Chapter 378 (1981), enacting RSA 654:44.
- q) Not applicable as this is not a redistricting plan.
- r) Exhibit 654:44 B is a copy of a Press Release of this submission, its availability, and inviting comment to federal Department of Justice.

I expect the foregoing information is sufficient to enable the United States Attorney General to make the required determination pursuant to Section 5 of the Voting Rights Act. If further information is required or would be helpful, please contact me.

Very truly yours,



Orville B. Fitch II
Senior Assistant Attorney General
Civil Bureau
(603) 271-1238
bud.fitch@doj.nh.gov

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CHAPTER 378 (HB 771)

**AN ACT CHANGING THE PROCEDURE FOR REMOVAL OF NAMES
FROM THE CHECKLIST AND ADDING AN EXCEPTION
TO CHECKLIST VERIFICATION EVERY TEN YEARS.**

Be it Enacted by the Senate and House of Representatives in General Court convened:

378:1 New Section. Amend RSA 654 by inserting after section 43 the following new section:

654:44 Removing Names from Checklist; Notice Required.

I. The supervisors shall remove no person's name from the checklist of their town or ward unless they shall send notice by mail to the last known address of the person whose name they wish to remove from the checklist stating the reason they are considering removing such person's name from the checklist. Such notice shall also state the time and the place at which the supervisors shall meet to consider the removal of that person's name and shall give the date of such meeting which shall be at least 30 days after they send such notice. At such meeting, the person whose name the supervisors wish to remove shall have a chance as he wishes to state in person or to present in writing personally, or by mail or other messenger, or by any such combination of these as he chooses, the reasons why his name should be left on the checklist. The supervisors shall not remove a person's name from the checklist until after the completion of the written or oral statement, if any, of the person whose name they wish to remove from the checklist at the meeting held at least 30 days after they sent the notice this section requires. The supervisors shall keep records as proof of compliance with this paragraph.

II. The provisions of this section do not apply to the removal of the names of persons for whom the supervisors have received a report of transfer or death as provided in RSA 654:36 or 654:37, nor to the removal of names during the period for verification of the checklist as provided in RSA 654:38 or 654:39, nor to the removal of names of persons for whom they have received a notice from a duly authorized board of registration from a community outside New Hampshire stating that a person whose name is on the checklist of the town or ward in New Hampshire has registered to vote outside New Hampshire.

378:2 Exception.

I. Notwithstanding the provisions of RSA 654:39, any city which is divided into wards and which proposes to redraw its ward lines on the basis of the most recent decennial census of the United States may, by vote of its legislative body, postpone the requirements of RSA 654:39 as follows:

(a) The period in RSA 654:39, II is changed to between December 1, 1981, and May 1, 1982;

(b) The actions required under RSA 654:39, III shall begin February 1, 1982; and

(c) The filing required by RSA 654:39, V shall be accomplished no later than June 1, 1982.

II. In a city which by vote of its legislative body adopts the provisions of paragraph I, a person shall be deemed reregistered and need not appear before the supervisors if such person voted in the 1980 state general election.

378:3 Effective Date. This act shall take effect 60 days after its passage.

[Approved June 23, 1981.]

[Effective Date August 22, 1981.]

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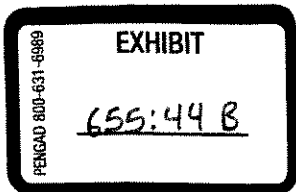
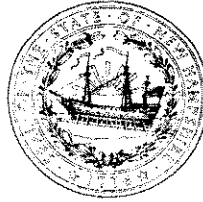
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News Release

RELEASED BY: Attorney General Kelly A. Ayotte

SUBJECT: Voting Rights Act – Submission of a request for preclearance of changes to New Hampshire Voting laws and procedures

DATE: June 10, 2005

RELEASE TIME: Immediate

Attorney General Kelly A. Ayotte announces the submission of requests for preclearance of changes made to the election laws in New Hampshire to the Federal Department of Justice. Preclearance submissions will address changes made to New Hampshire's election laws since jurisdictions in the State became subject to preclearance.

Ten New Hampshire towns are subject to section 5 of the federal Voting Rights Act. Changes to New Hampshire election laws that affect any of these ten towns must be submitted for review by either the Federal Department of Justice or the Federal District Court for Washington D.C. The federal Department of Justice will review the changes to New Hampshire's election laws to ensure that the changes do not have the effect of denying or abridging the right to vote on account of race or color, or membership in a language minority group. Changes to New Hampshire redistricting statutes have been submitted to, and approved by, the U.S. Justice Department since the 1980 census. Federal regulations require that the public be notified that the State has filed a request for preclearance and that the submission be available for public inspection.

Copies of each submission by the Attorney General for the State of New Hampshire are available at the office of the Attorney General at 33 Capitol Street, Concord New Hampshire, 03301. Each document will also be made available at the Attorney General's Office web site at:

<http://www.doj.nh.gov/elections/>

Attorney General Ayotte and the federal Department of Justice invite persons interested in this submission to submit comments and information, in writing or by telephone, to the Voting Section of the Federal Department of Justice, Civil Rights Division, at the earliest possible date to ensure that they may be considered during the preclearance review time period. Telephone 1-800-253-3931 or (202) 307-2385 or write Chief, Voting Section, Civil Rights Division, Room 7354 – NWB, Department of Justice, 950 Pennsylvania Ave., NW, Washington, DC 20530. The envelope and first page should be marked "Comment under section 5." Additional information on the Voting Rights Act and the preclearance process can be obtained at the web site of the Federal Department of Justice at:

<http://www.usdoj.gov/crt/voting/index.htm>

The New Hampshire Attorney General's Office Voting section can be contacted at:

<http://www.doj.nh.gov/elections/>
New Hampshire Toll Free 1-866-8868-3703
or 1-866-VOTER03
electionlaw@doj.nh.gov